

DETAILED ACTION

The reply filed on 5/15/08 is not fully responsive to the prior Office Action because: applicants have not properly replied to the non-responsive notification dated 3/17/08. Applicants present a timeline of the prosecution history of the instant application stating that in the Office Action dated 5/19/06 applicants elected invention I and further state that invention I is figure 1. However there was no species requirement made in the office action dated 5/19/06. The only election was to invention I **not** to figure 1. In applicants response filed 5/9/07 applicants added claims 75-116 but did **not** indicate which claims read on which invention from the restriction requirement dated 5/19/06 and therefore in response to the additional claims the examiner sent out a further restriction requirement dated 6/29/07 between the different species found in the instant specification. Applicants responded then on 7/13/07 and elected figure 1 and then stated that all of the claims read on figure 1. The Examiner then replied on 8/24/07 that not all of the claims can read on figure 1 and gave reasons as to why not all of the claims could read on figure 1. Applicants then replied on 9/24/07 as to why all of the claims could read on figure 1. Therefore on 11/08/07 the restriction requirement from 6/29/07 was abandoned by the Examiner and a different restriction requirement was made to further clarify the Examiner's position and show how the new claims are related to different species. Applicants then responded with an election dated 12/10/07. In applicants' response, applicants elected Species A drawn to the fuel being transported from the 1st chamber to the 3rd reaction compartment via a pump and Species 2 wherein the means for supplying fuel to the fuel cell is via a pipe. As previously clarified in the

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Examiner's response dated 3/17/08 by applicants' election of Species A and Species 2 none of the pending claims read on said election. Independent claims 1 and 82 require a gas permeable, liquid impermeable membrane. The species to the membrane of Species 1 is not elected and therefore claims 1 and 82 cannot be examined since they require the non-elected membrane and therefore none of the dependent claims can read on the elected species either. Independent claim 92 requires a pressure differential device, which as best understood by the instant specification is a membrane and therefore independent claim 92 does not read on the elected species and therefore none of the dependent claims can read on the elected species either. Independent claim 100 and its subsequent dependent claims have been withdrawn by applicants. Independent claim 112 requires that the hydrogen gas and liquid reactants are transported together to the second reactant compartment. Elected species 2, drawn to pipe 38 requires that only the liquid reactant is fed to the second reactant compartment and that the hydrogen is directly fed to the fuel cell via pipe 38 and since claim 112 requires the hydrogen and liquid reactant to be fed to the second reactant compartment and not feeding hydrogen directly to the fuel cell via pipe 38, claim 112 cannot read on the elected species either and therefore none of the claims that depend on claim 112 can read on the elected species. Therefore as clarified above by applicants' reiterated election of the election filed 12/10/07 reiterated on 3/17/08, none of the claims read on said election and subsequently all the claims are withdrawn from consideration leaving no claims for the Examiner to examine which renders applicants responses filed 12/10/07 & 3/17/08 non-responsive. It should also be noted that no Action on the

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Merits has been made since the restriction requirement dated 6/29/07 (i.e. the new claims have not been rejected) and therefore the election to said restriction requirement is **not** fixed as applicants state in their reply 5/15/08. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HODGE whose telephone number is (571)272-2097. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./
Examiner, Art Unit 1795

/Jonathan Crepeau/
Primary Examiner, Art Unit 1795